

**STATE OF VERMONT
PUBLIC SERVICE BOARD**

Petition of Vermont Gas Systems, Inc.,)
requesting a Certificate of Public Good pursuant)
to 30 V.S.A. § 248, authorizing the construction)
of the “Addison Natural Gas Project” consisting)
of approximately 43 miles of new natural gas)
transmission pipeline in Chittenden and Addison)
Counties, approximately 5 miles of new)
distribution mainlines in Addison County,)
together with three new gate stations in)
Williston, New Haven, and Middlebury,)
Vermont)

Docket No. 7970

**VERMONT GAS SYSTEMS INC. MOTION TO
ADMIT MOU INTO THE EVIDENTIARY RECORD**

On October 7, 2015, VGS filed with the Public Service Board (“Board”) the enclosed Memorandum of Understanding (“MOU”) between the Department of Public Service and VGS in the above-captioned proceeding.¹ By this filing, Vermont Gas Systems Inc. (“VGS”) hereby moves the Vermont Public Service Board (“Board”), pursuant to Public Service Board Rule 2.206, to admit the MOU into evidence.²

In support of this Motion, VGS submits the following Memorandum of Law.

MEMORANDUM

VGS requests that the MOU be admitted into evidence. The MOU imposes a cap of \$134 million (subject to exceptions) on rate recovery of project costs. It is therefore relevant to the

¹ Two prior post-hearing MOUs, between VGS and the Town of Middlebury, and between VGS and Chittenden Solid Waste District (“Middlebury and CSWD MOUs”), were filed with the Board unaccompanied by a motion to admit into evidence. In order to submit this MOU as soon as it was executed, the MOU filing was also unaccompanied by a motion.

² At a Status Conference held today, VGS moved that the MOU be admitted into evidence, but certain parties argued that a motion made at a status conference should not be considered. As a result, VGS is reiterating its motion through this filing.

issue of whether the project's rate impact results in an impermissible cross-subsidy, an issue in the pending V.R.C.P. 60(b) proceeding.³

VGS submits that the process to determine whether to admit the MOU should be consistent with the process adopted by the Board in determining whether to admit the Middlebury and CSWD MOUs, which were also filed after evidentiary hearings had concluded.⁴ In that context, the Board adopted the following procedure:

[W]e now give the parties ten days from the date of this Order to state any objection to the entry of this MOU into the record. Any objection shall: (1) be in writing with notice to all the parties; (2) clearly state the evidentiary basis for the objection; and (3) articulate how the objecting party's interests are negatively impacted by its entry into the record.⁵

VGS requests that the Board adopt a similar procedure here by issuing an order providing a similar opportunity to file comments, within ten days of the Board's order, that address the criteria identified above. VGS also requests a brief opportunity to respond to any comments.⁶

Wherefore, VGS moves to admit the enclosed MOU into evidence.

³ See *Petition of Vermont Gas Systems, Inc., requesting a Certificate of Public Good pursuant to 30 V.S.A. § 248, etc.*, Docket No. 7970, *Order re: Rule 60(b) Reconsideration* (Vt. Pub. Serv. Bd. Oct 10, 2014) at 23.

⁴ In responding to the filing of those MOUs, the Board stated:

Generally, material received after the closure of the evidentiary record is not considered by the Board, but in this instance the Board finds good cause to reopen the record and incorporate this MOU. In particular, it will serve to encourage the development of MOUs that address issues before the Board, thus justifying deviation from the general rule. Moreover, if we were not to incorporate the MOU into the record, we would be basing our decision on a route that we know is opposed by CSWD and that VGS has already agreed to modify.

Petition of Vermont Gas Systems, Inc., requesting a Certificate of Public Good pursuant to 30 V.S.A. § 248, etc., Docket No. 7970 (Vt. Pub. Serv. Bd. Dec. 23, 2013) ("Final Order") at 14, n. 9.


⁵ *Id.*

⁶ Although VGS was prepared to address at the status conference the comments filed by AARP and the Palmers, VGS requests an opportunity to respond to those and any further comments.

Dated at Burlington, Vermont this 15th day of October 2015.

VERMONT GAS SYSTEMS, INC.

By:


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